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August 23, 2004

VIA MESSENGER

Ms. Marlene H. Dortch  
Secretary  
Federal Communications Commission  
445 12<sup>th</sup> Street, S.W.  
Washington, DC 20554

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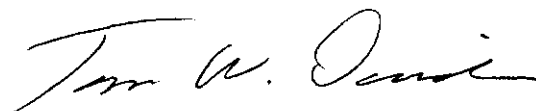
FEDERAL COMMUNICATIONS COMMISSION  
OFFICE OF THE SECRETARY

Re: KSEE License, Inc.  
MB Docket No. 04-236; RM-11001  
In the Matter of Amendment of Section 73.622(b), Table of Allotments, Digital  
Television Broadcast Stations (Fresno, California)

Dear Sir or Madam:

On behalf of KSEE License, Inc., enclosed for filing are an original and four copies of comments in support of the allotment proposal set forth in the above-captioned proceeding. Please direct any inquiries concerning this matter to the undersigned.

Sincerely,



Tom W. Davidson

Enclosures

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Before the  
FEDERAL COMMUNICATIONS COMMISSION  
Washington, D.C. 20554

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Amendment of Section 73.622(b), Table of	)	MB Docket No. 04-236
Allotments, Digital Television Broadcast	)	
Stations (Fresno, California)	)	RM-11001

**COMMENTS OF KSEE LICENSE, INC.**

KSEE License, Inc. ("KSEE License"), by its attorneys and pursuant to Section 73.623 of the rules of the Federal Communications Commission ("Commission"), 47 C.F.R. § 73.623, hereby submits its comments in support of the proposal to amend the digital television ("DTV") table of allotments, 47 C.F.R. 73.622(b), to substitute DTV channel 38 for DTV channel 16 at Fresno, California ("Channel Substitution"). KSEE License filed a petition for rulemaking ("Petition") seeking the Channel Substitution on May 3, 2004.<sup>1</sup> On July 2, 2004, the Video Division of the Commission's Media Bureau released a notice of proposed rulemaking proposing the Channel Substitution ("NPRM").<sup>2</sup> In the instant comments, KSEE License submits its statement of interest and demonstrates that grant of the Channel Substitution is in the public interest.

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<sup>1</sup> In the Matter of Amendment of Section 73.622(b), Table of Allotments, Digital Television Broadcast Stations (Fresno, California), *Petition for Rulemaking*, MB Docket No. 04-236, RM-11001 (May 3, 2004) ("Petition").

<sup>2</sup> See In the Matter of Amendment of Section 73.622(b), Table of Allotments, Digital Television Broadcast Stations (Fresno, California), *Notice of Proposed Rulemaking*, MB Docket No. 04-236, RM-11001 (rel. July 2, 2003) ("NPRM").

## **I. BACKGROUND**

KSEE License is the licensee of commercial DTV station KSEE-DT, DTV channel 16, Fresno, California. Months after KSEE License commenced its DTV operations, several land mobile licensees in the San Francisco and Los Angeles markets, including both public safety and private entities, reported that their land mobile operations on channel 16 were receiving interference, which they believed was caused by KSEE License's DTV operations.<sup>3</sup> Based on exhaustive testing and analysis, KSEE License determined that its DTV operations were fully consistent with its license and with all of the Commission's rules and policies.<sup>4</sup> KSEE License also concluded that it could not remedy the alleged interference through modification of its existing DTV facilities on channel 16.<sup>5</sup> Thus, in an effort to remedy the interference alleged by the land mobile operators, KSEE License proposed the Channel Substitution.<sup>6</sup>

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<sup>3</sup> See Petition at 2-3 (detailing interference complaints). KSEE License incorporates its Petition for Rulemaking by reference herein.

<sup>4</sup> See Petition at 2-3.

<sup>5</sup> See Petition at 4-5; Engineering Statement in Support of Petition for Rulemaking to Change Frequency From DTV Channel 16 to DTV Channel 38, prepared by Dane E. Ericksen, at 4-5 ("Engineering Statement"). KSEE License incorporates its Engineering Statement by reference herein.

<sup>6</sup> KSEE License was under no legal obligation to change its DTV channel or otherwise modify its facilities because its licensed operations complied fully with all FCC rules and policies. As set forth in the Petition, KSEE License believes that the alleged interference to land mobile operators likely is due to insufficient spacing requirements. Nevertheless, KSEE License is willing to implement the Channel Substitution because it appears to be the only way, other than relocating public safety facilities, to resolve the alleged interference.

## **II. STATEMENT OF INTEREST**

If the Channel Substitution is adopted, KSEE License will apply for a DTV construction permit for channel 38, with the following specifications:

State & City	DTV Channel	Coordinates	DTV Power (kW)	Antenna HAAT (m)
Fresno, CA	38	37-04-19 N; 119-25-48 W	326	601

If so authorized by the Commission, KSEE License will promptly construct such DTV facilities on channel 38.

## **III. THE CHANNEL SUBSTITUTION IS IN THE PUBLIC INTEREST**

Expedited adoption of the Channel Substitution would promote the public interest in several tangible ways. First, the Channel Substitution will result in prompt elimination of the alleged interference to private and public safety land mobile operators in California. By operating on channel 38, KSEE License will eliminate any possibility of interference with these licensees on channel 16. Second, the Channel Substitution will ensure KSEE License's continued provision of local and national NBC service throughout the Fresno market. Because KSEE License believes it could operate on DTV channel 38 in Fresno with the same pattern and power used from its present transmitter site, there will be minimal potential for interruption in service. Moreover, these two public interest benefits can be achieved while maintaining compliance with all Commission rules and policies.

**IV. CONCLUSION**

For all of the foregoing reasons, KSEE License urges the Commission to adopt the Channel Substitution expeditiously.

Respectfully submitted,

**KSEE LICENSE, INC.**

By: 

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Dated: August 23, 2004

Its Counsel